



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-254-3600

August 11, 2006

The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515-6216

Re: OSC File No. HA-05-2069

Dear Representative Conyers:

This letter is in response to information you provided the Office of Special Counsel (OSC) concerning allegations that former Secretary of Agriculture Ann Veneman violated the Hatch Act by engaging in political activity paid for by money derived from the Treasury of the United States. As you are aware, although Secretary Veneman is no longer a federal employee and thus, OSC would not be able to obtain disciplinary action against her, OSC decided to fully investigate your allegations to determine whether her activities violated the Hatch Act.

You allege that during the fall of 2004, Department of Agriculture officials traveled to politically-contested farm states to deliver farm policy-related and campaign-related remarks in the same speech. Specifically, you allege that Secretary Veneman made eighteen trips in the three months leading up to the 2004 Presidential Election, including twelve to battleground states. You further allege that "Administration officials cross the line when they engage in combined official and political activity and expect taxpayers to pay their way." We have completed our investigation into these allegations, and as explained below, have found that Secretary Veneman did not violate the Hatch Act.

As Secretary of Agriculture, Ann Veneman was covered by the provisions of the Hatch Act. The Hatch Act, 5 U.S.C. §§ 7321-7326, governs the political activity of federal executive branch employees. Most covered employees are prohibited from engaging in political activity while on duty, in a federal building, while wearing an official uniform or insignia, or using a government vehicle. 5 U.S.C. § 7324. However, the Hatch Act does not prohibit certain employees appointed by the President, by and with the advice and consent of the Senate (PAS),¹ such as Secretary Veneman, from doing so, provided the costs associated with that political activity are not paid for by money derived from the Treasury of the United States.² 5 U.S.C. § 7324 (b).

¹ To be exempt from this prohibition, a PAS also must hold a position whose duties and responsibilities continue outside normal duty hours and while away from the normal duty post and that is located within the United States, and the PAS must determine policies to be pursued by the United States in relations with foreign powers or in the nationwide administration of federal laws. 5 U.S.C. § 7324 (b)(2).

² Political activity has been defined as activity directed toward the success or failure of a political party, candidate for a partisan political office or partisan political group. 5 C.F.R. § 734.101.

Our investigation into your allegations involved the review of travel documents for all Secretary Veneman's travel during the twelve months preceding the 2004 Presidential Election. Our review found that when Secretary Veneman engaged in "mixed" travel (*i.e.*, part of her trip was for official purposes and part was for political purposes), the appropriate formula was used to apportion the costs of the mixed travel. See 5 C.F.R. § 734.503 (c)-(d). Further, we found that the U.S. Government sought reimbursement by the appropriate political parties or organizations for the portion of Secretary Veneman's mixed travel that was political as well as for all of her travel that was solely political during this time. Therefore, our investigation determined that none of Secretary Veneman's political travel during this time was paid for by money derived from the Treasury of the United States.

Our investigation also included a review of speeches and remarks that Secretary Veneman made while on official travel during the three months preceding the 2004 Presidential Election. We found that the engagements where she delivered these speeches and remarks were not campaign events and that her speeches did not advocate for President George W. Bush as a candidate for reelection. Thus, we have concluded that the speeches and remarks Secretary Veneman made during these official trips were not campaign speeches. Accordingly, Secretary Veneman did not engage in political activity when she gave these speeches and remarks. Moreover, the fact that her appearance at these events during the months prior to the election may incidentally have had a beneficial effect on President Bush's reelection efforts would not transform an otherwise non-political event or speech into a political one.

As explained above, our investigation into your allegations determined that Secretary Veneman did not engage in prohibited political activity in violation of the Hatch Act. Thus, we are closing our file in this matter.

Sincerely,



Erica N. Stern
Attorney
Hatch Act Unit